

APPEAL NO. 010477

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 18, 2001. With respect to the single issue before him on appeal, the hearing officer determined that the appellant's (claimant) compensable injury of _____, does not extend to the cervical spine. In his appeal, the claimant essentially argues that the hearing officer's extent-of-injury determination is against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The claimant has the burden to prove by a preponderance of the evidence that his compensable injury extended to a cervical injury. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). That question presented the hearing officer with a question of fact. The hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence before him. Section 410.165(a). The hearing officer resolves conflicts and inconsistencies in the evidence, including the medical evidence, and determines what facts have been established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer determined that the claimant did not sustain his burden of proving that his compensable injury extended to and included a cervical injury. The hearing officer noted the delay in the onset of cervical complaints. In addition, the hearing officer noted that he was discounting the causation opinion of Dr. R, the claimant's treating doctor, because it did not establish "a causal relationship between Claimant's neck condition and Claimant's work with Employer." As the fact finder, the hearing officer was acting within his province in considering those factors in making his credibility determinations. Our review of the record does not demonstrate that the hearing officer's determination that the claimant's compensable injury did not extend to the cervical spine is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Therefore, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

Elaine M. Chaney
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Michael B. McShane
Appeals Judge